

From: [Lisa Lehner](#)
To: [Allison Norris](#); [Lily Hartmann](#)
Subject: FW: ICE FOIA Response for 2019-ICAP-00315
Date: Wednesday, May 8, 2019 4:53:03 PM
Attachments: [Appeal Adjudication 2019-ICAP-00315; 2019-ICFO-28258 constructive denial remand to process21.pdf](#)

From: ice-foia@dhs.gov <ice-foia@dhs.gov>
Sent: Wednesday, May 8, 2019 4:52 PM
To: Lisa Lehner <llehner@aijustice.org>
Subject: ICE FOIA Response for 2019-ICAP-00315

Ms. Lehner,

ICE's final response to your FOIA request, 2019-ICAP-00315, for appealing constructive denial seeking; any and all records¹ authored, prepared, received, collected and/or maintained by or transmitted to/from DHS and/or ICE that describe, refer or relate ICE's documentation of its officers' considerations of the least restrictive setting for each age-out as required under 8 U.S. Code § 1232 (c)(2)(B). Records dated between October 1, 2018 and the present day - 1) All guidelines, directives, rules, policies, procedures, memoranda, reports, correspondence, communications or other documents that relate to the custody decisions pertaining to "age outs"³ subject to the 8 U.S. Code § 1232 (c)(2)(B) within the Miami Field Office area of jurisdiction from October 1, 2018 to present 2) All policies, memoranda, correspondence, and other documents related to an October 17, 2018 ICE policy requiring documentation of Title 8 U.S. Code § 1232 (c)(2)(B) decisions made by ICE regarding the manner of detention or release from detention of formerly unaccompanied minors who have turned 18 while in the custody of ORR, hereinafter referred to as "age-outs" 3) All documents uploaded since October 1, 2018 to a SharePoint page created for the purpose of documenting ICE officers' considerations of the less restrictive setting for each "age-out" within the Miami Field Office area of jurisdiction pursuant to Title 8 U.S.C. § 1232 (c)(2)(B) including the form in which age out custody decisions are made and documented 4) All guidelines, directives, rules, policies, procedures, memoranda, reports, correspondence, communications or other documents that relate to the number of age outs transferred from ORR custody to ICE detention facilities within the jurisdiction of the Miami Field Office of ICE from October 1, 2018 until the present is attached.

Please note that the attachment may be password protected. If you are prompted to enter a password when opening the attachment and you did not receive a password it may be in your junk/spam folder.

Sincerely,
ICE FOIA

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Office of the Principal Legal Advisor

U.S. Department of Homeland Security
500 12th Street, SW, STOP 5009
Washington, D.C. 20536-5009



U.S. Immigration
and Customs
Enforcement

May 8, 2019

Lisa Lehner
Americans for Immigrant Justice
6355 NW 36 Street, Suite 2201
Miami, FL 33166

RE: 2019-ICAP-00315, 2019-ICFO-28258

Dear Ms. Lehner:

This is in response to your letter dated April 4, 2019 and received April 10, 2019, appealing the U.S. Immigration and Customs Enforcement (ICE) Freedom of Information Act (FOIA) Office's response to your FOIA request, which sought records dated between October 1, 2018 and the present day concerning ICE's documentation of its officers' considerations of the least restrictive setting for each age-out as required under 8 U.S. Code § 1232 (c)(2)(B).³ More specifically, you've requested:

- (1) All guidelines, directives, rules, policies, procedures, memoranda, reports, correspondence, communications or other documents that relate to the custody decisions pertaining to "age outs" subject to the 8 U.S. Code § 1232 (c)(2)(B) within the Miami Field Office area of jurisdiction from October 1, 2018 to present.
- (2) All policies, memoranda, correspondence, and other documents related to an October 17, 2018 ICE policy requiring documentation of Title 8 U.S. Code § 1232 (c)(2)(B) decisions made by ICE regarding the manner of detention or release from detention of formerly unaccompanied minors who have turned 18 while in the custody of ORR, hereinafter referred to as "age-outs".
- (3) All documents uploaded since October 1, 2018 to a SharePoint page created for the purpose of documenting ICE officers' considerations of the less restrictive setting for each "age-out" within the Miami Field Office area of jurisdiction pursuant to Title 8 U.S.C. § 1232 (c)(2)(B) including the form in which age out custody decisions are made and documented.
- (4) All guidelines, directives, rules, policies, procedures, memoranda, reports, correspondence, communications or other documents that relate to the number of age outs transferred from ORR custody to ICE detention facilities within the jurisdiction of the Miami Field Office of ICE from October 1, 2018 until the present.

Lisa Lehner, Americans for Immigrant Justice
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By a letter dated April 4, 2019 you have appealed the constructive denial of this request based upon ICE FOIA's failure to provide you with a response to your FOIA request within either the twenty (20) days provided by statute or the additional 10-day extension invoked by the ICE FOIA Office. In many instances, an agency cannot meet these time limits due to a high volume of requests, resource limitations, or other reasons. ICE has begun processing your request on a "first-in, first-out basis" and is permitted to respond to relatively simple requests more quickly than requests involving complex and/or voluminous records.

ICE is therefore remanding your appeal to the ICE FOIA Office for the completion of processing, including tasking to the appropriate agency/office(s) to obtain any responsive documents, and a direct response to you.

Should you have any questions regarding this appeal remand, please contact ICE at ice-foia@dhs.gov. In the subject line of the email, please include the word "appeal," your appeal number, which is **2019-ICAP-00315**, and the FOIA case number, which is **2019-ICFO-28258**.

Sincerely,

Alexandra Ellis

For: Shiraz Panthaky, Chief
Government Information Law Division
ICE Office of the Principal Legal Advisor
U.S. Department of Homeland Security